

(MR. SPEAKER)

this behalf. If they can show, that is all right. I have written to the Speakers of different State Legislatures to enlighten me on this question. I have written to the Lok Sabha and the Legislatures of Madras, Kerala, Andhra and other places. I have also written to the House of Commons in this respect. As soon as I receive the replies from them, I shall consolidate them and give my ruling. I will be able to do it shortly.

Sri G. VENKATAI GOWDA (Palaiyam).—The other day when certain notifications were sought to be placed before the House, I took objection to certain things and I have given them in writing to you. Nothing has been done about it.

Mr. SPEAKER.—I have sent them to the Government for their replies, and as soon as I receive them, I will place them before the House.

Election to Senate of the Mysore University.

Mr. SPEAKER.—In respect of the election of one member to the Senate of the Mysore University by the Members of the Legislative Assembly, as only one application has been received from Sri F. X. Max Denis Pinto, he is declared elected and consequently there will be no election in this behalf.

Sri Y. VEERAPPA (Holenarasipur).—Sir, I had sent in an adjournment motion.

Mr. SPEAKER.—It will be taken up tomorrow or day after tomorrow.

HYDERABAD CO-OPERATIVE SOCIETIES (MYSORE AMENDMENT) BILL, 1958.

Introduction.

Sri MALI MARIAPPA (Minister for Co-operation).—Sir, I introduce the Hyderabad Co-operative Societies (Mysore Amendment) Bill, 1958, which has been published in the *Mysore Gazette* under rule 46 of the Rules of

Procedure and Conduct of Business in the Mysore Legislative Assembly.

Mr. SPEAKER.—The Bill is introduced.

MADRAS COMMERCIAL CROPS MARKETS (MYSORE AMENDMENT AND VALIDATION OF LEVY OF CESS) BILL, 1958.

Motion to consider.

Sri MALI MARIAPPA (Minister for Co-operation).—Sir, I move :

“That the Madras Commercial Crops Markets (Mysore Amendment and Validation of Levy of Cess) Bill, 1958, be taken into consideration.”

Mr. SPEAKER.—Motion moved :

“That the Madras Commercial Crops Markets (Mysore Amendment and Validation of Levy of Cess) Bill, 1958, be taken into consideration.”

Sri M. C. NARASIMHAN (Kolar Gold Fields).—Sir, I have to raise a point of order in respect of this Bill. The Bill should not be passed because of two or three objections. One is, this particular Bill seeks to validate with effect from 23rd November 1955 the cess collected, for which there was no authority to collect. It is a very well known rule that an invalidity based on want of power or jurisdiction cannot be cured by subsequent legislation. My point is that it cannot be enacted to have retrospective effect from 23rd November 1955. In respect of a subsequent transaction, i.e., from the date on which this amendment becomes enforceable I can understand but not in respect of a matter where there was want of jurisdiction; you can't have it retrospectively. The Statement of Objects and Reasons admits that there was want of jurisdiction while this cess was collected because notification as contemplated under Section 11 of the Act was not issued. This is an important point; you cannot have such a curative legislation which is based on want of power or want of jurisdiction.

The second point is: it transgresses on the subject of inter-State Sales Tax. So far as Mangalore is concerned, it is a port and I understand the transactions involve transactions outside the State. If that position is true, this cannot be enacted at all.

Thirdly, I would like to know whether it is proper for us to by-pass the judgment of the High Court in this manner. It may be that this particular legislation refers only to the levy of cess or fee or tax; but if this type of a thing were to be continuously allowed it would be such a dangerous precedent and if anything done by the Government is declared illegal by a High Court then it leads to an impression that it can be corrected in this manner. That is a proposition which would not also be morally advisable.

I want you to consider this matter in the light of one or two points I have raised.

Sri G. VENKATAI GOWDA (Palaiyam).—I also would like to add one more point to the points raised by my friend Sri Narasimhan. Section 11 of the Madras Commercial Crops Markets Act, 1933 empowers the collection of cess subject to the notification being published in this behalf and also the area within which it is to be collected has to be notified. That has not been done and so the levy of the collection of the cess has become illegal. Secondly, the Madras Government itself brought an amending Act—Act XXXIII of 1955—to validate the illegal levy and collection. When there is already an Act of the Madras Government to validate all the illegal things done under section 11 of the original Madras Act, a further amending Bill seeking to validate all these things does not arise. My another objection is: it is disclosed in the Statement of Objects and Reasons that the legality of the levy has been questioned and the High Court has given a decision and also it is said that the validity of the collection is questioned. I do not know whether the High Court has given a decision or not and it is not disclosed in the Statement of Objects and Reasons. Whatever that might be, my submission is that the High Court

might give a decision later and that in view of the amended Act of 1955 there is no need to bring this amending Bill. Further, if the Government seeks to enact it into law, my submission is that it is trying to interfere with the course of action that the High Court may take in view of the issue being before them. Therefore, before the High Court gives a decision in the matter that is challenged before them, it is premature to validate those things that are illegally done. But if the High Court gives a decision against the Government, then the Government may well be advised to bring in an amending Bill to validate those things that were illegally done and questioned.

Sri J. B. MALLARADHYA (Nanjangud).—I join the issue with my friend Sri Narasimhan.

Mr. SPEAKER.—There is no question of joining the issue. If you have any new point you may add.

Sri J. B. MALLARADHYA.—My special point is to urge that if the Government intend to levy this in future it is all right; but they cannot cure the irregularity by bringing an amendment at this distance of time. I want to know whether there is a precedent of this kind. Further it offends against the Constitution itself.

Mr. SPEAKER.—I want to ask: is it the Government that is going to cure the irregularity or the House? The point is the House is entitled to cure the irregularity or illegality.

Sri J. B. MALLARADHYA. My point is that when once the matter is seized by a Court of competent jurisdiction and if that gives a ruling against the validity of levy, what is to happen? Therefore so far as that is concerned, this House is precluded and there is no power to re-open the case. It is from that point of view I raise an objection to the consideration of this Bill.

Sri T. D. MARANNA (Magadi).—Is there any speciality in the point?

Sri J. B. MALLARADHYA.—I am talking on a legal point. He seems to think he is Socrates himself. It is a kind of needless interruption.

Sri T. D. MARANNA.—Better you understand it properly.

Mr. SPEAKER.—This is not fair. Is it before the High Court ?

Sri G. VENKATAI GOWDA.—It is said that the collection of cess has been questioned.

Sri MALI MARIAPPA.—May I submit that the matter which was before the High Court is finally disposed of ?

Mr. SPEAKER.—Yes.

Sri G. VENKATAI GOWDA.—When the High Court holds that the levy of collection of fees prior to the amendment of 1955 is illegal and when there is a specific amending Act of the Madras Government to validate all the illegal things, there is no need now to seek to validate the illegal collection and levy. Therefore I fully support the point of order raised by my friend.

Sri Y. VEERAPPA (Holenarasipur).—It appears as though that this Bill is intended to punish an acquitted accused. It is a well known principle of the canons of jurisprudence that when once a thing is adjudicated finally, it cannot be opened for any reason whatsoever. This Bill envisages to apply retrospectively, because proceedings in the Court of Law have already been taken and much expenditure has also been incurred. . . .

Mr. SPEAKER.—Your contention is that this House is precluded from legislating and bringing into law with retrospective effect.

Sri Y. VEERAPPA.—To bring this Bill for the purpose of giving effect to retrospectively—it looks strange and offends the principles of the Constitution. This amendment Bill is opposed to the principles of the Constitution and it cannot be passed.

Sri T. SUBRAMANYA (Minister for Law, Labour and Local Self-Government).—May I know from the Hon'ble Member under what provision of the Constitution this House is precluded from bringing a law with retrospective effect ?

*Sri V. SRINIVAS SHETTY (Coondapur).—Sir, section 11 of the Madras Commercial Crops Markets Act, 1933 (Madras Act XX of 1933) reads :

“Notwithstanding anything contained in the Madras General Sales Tax Act, 1939 (Madras Act

IX of 1939), the Market Committee shall, subject to such rules as may be made in this behalf, levy a cess by way of sales tax on any commercial crop bought and sold in the notified area at such rates as the State Government may, by notification, determine.”

The Market Committee did not frame any rules. It went on levying the sales-tax. The Madras Government came with Act XXXIII of 1955 and stated in Section 10—

“Notwithstanding anything contained in any law or in any judgment, decree or order of any court, all fees levied and collected or purporting to have been levied and collected by market committees under section 11 of the principal Act before it was amended by this Act shall be deemed always to have been levied under the principal Act as amended by this Act as if this Act was in force at all relevant times.”

In spite of this they do not seem to have framed any rules. Now this Government is trying to bring this Bill. Section 11 is not amended. The rules are not framed. . . .

Sri K. PUTTASWAMY (Mysore).—May I know whether the Hon'ble Member is addressing the House on the point of order or on the Bill ?

Sri V. SRINIVAS SHETTY.—Both—on the point of order and the Bill as well.

Sri G. SIVAPPA (Chitradurga).—Sir, someone raised a point of order when the Bill was moved. When the Bill is taken into consideration, there is no objection for anyone to comment on the Bill. But on a point of order, if all the members are allowed to speak, where is the end ?

Mr. SPEAKER.—Of course, I cannot shut out the Hon'ble Members from enlightening me on points of order raised in this House. The members possess a right in this respect. But I may also state this. What is the use of enlightening me on points of orders which I have already grasped ? I only want to know whether there is any

new point in this respect. I have already understood that the Opposition is under the impression whether rightly or wrongly, that this House is precluded from legislating retrospectively.

Sri G. VENKATAI GOWDA.—The second point is validity. The Madras Government under section 11 have brought an amendment Act. But that Act has been nullified by the High Court. Therefore can another Act. . .

Mr. SPEAKER.—That Act has not been nullified. Act XXXIII of 1955 was not nullified. What was thought to be invalid was : there was no issue of notification and therefore the levy of tax was held to be in valid. If there had been a notification, the High Court would not have said that the levy of sales-tax was invalid.

Sri G. VENKATAI GOWDA.—Because of want of notification, the collection of sales-tax was objected to. To validate, that amending Act was brought into force. To escape that difficulty that amendment was brought into being.

Mr. SPEAKER.—Levy was held invalid for want of the issue of a notification. I understand your point that this House cannot make a law which will have a retrospective effect.

Sri G. VENKATAI GOWDA.—That is exactly what I meant, Sir.

***Sri A. V. NARASIMHA REDDY** (Bangalore South).—That position is not correct in the sense that this House is not to validate the levy retrospectively. The Government of Mysore through an Ordinance have held valid the cess collected by the Market Committee. Through this Bill they are regularising and replacing that Ordinance. That is the situation in which the Bill has been introduced. This Government would not know whether any notification in respect of an enactment by the erstwhile Madras State has been issued or not. This Government could not understand that position. Because after the States reorganisation came into being, these people were not in a position to understand the various notifications in respect of the statutes enacted in the other integrated areas, and whether

they were issued or not. Because it was provided in the Act itself, the Market Committee have gone on collecting. When it was brought to the notice of the State Government that what was collected was unfair, and after the Government came to know of the High Court's decision that the notification was not issued, they issued an Ordinance. By this Bill they are replacing that Ordinance. Therefore the assumption that the Government is trying to validate retrospectively the sales-tax collected is not correct.

2-30 P.M.

***Sri K. PUTTASWAMY.**—Sir, the point of order raised is on three grounds. One is that this House is not competent to legislate retrospectively; the second is that it offends the Inter-State Sales-Tax Act and the third is that the matter has been already decided by the High Court and as such, legislating against the High Court decision would not be proper. These are the three points that were raised.

Sri M. C. NARASIMHAN.—The point has been thoroughly misunderstood, Sir. Let me make myself clear. My point is not that this House is not entitled to legislate retrospectively. That is not my point. My point is that you are trying to correct an act for which you had no authority previously. That is a different proposition. My point is that the Government had acted illegally in imposing a particular cess. They are now coming back to this House to say that what had been illegally done at that time, may please be corrected by this House.

Mr. SPEAKER.—So, you seem to concede that this House has the power to make laws which can operate retrospectively. That is what I understand from you. Secondly, if it is so, how do you say that this House has no power or jurisdiction ?

Sri M. C. NARASIMHAN.—Sir, the question of retrospective effect has not been a point involved in this. I have stated that as a general rule of law, as a proposition, you cannot correct an act subsequently for which you had no

(SRI M. C. NARASIMHAN)
authority to do. It had already taken an action which was illegal. It was an illegal act on the part of the Government. My point is, can you come back here and say, 'correct it now'. That is the question.

MR. SPEAKER.—I want to know from you: How do you say that this House has no authority or jurisdiction?

*SRI V. P. DEENADAYALU NAIDU (Cubbonpet).—He does not seem to realise that this Government is a successor Government so far as that particular area is concerned, because the S. R. Act confers that jurisdiction. That is what he is questioning. So far as this matter is concerned, this Government is the successor Government.

SRI K. PUTTASWAMY.—Sir, I am very thankful to my friend Sri M. C. Narasimhan for correcting a wrong impression that some of us had formed, though I feel that it is an after-thought. There are any number of instances when the Legislative Assembly of various States have enacted legislation with retrospective effect, and very often curative legislation. My friend Sri Narasimhan questioned the right of the Government to bring a curative legislation, as he has termed. If the Government brought a legislative enactment to cure a defect in the past legislation, he calls it as 'curative legislation'. I submit that the Government have that right to bring such legislation and this House is competent to legislate and remove the defects of existing legislation.

The second point my Hon'ble friend Sri Narasimhan raised was that it offended the Inter-State Sales Tax Act. Sir, the commodities that are included in the Madras Commercial Crops Markets Act, are not included in the Inter-State Sales Tax Act. The levy of sales-tax on the goods that are sold within the territory of the State is in the State List. Therefore Sir, this House is competent to legislate on the Sales-Tax.

Sir, whenever a point or order is raised, we confine ourselves strictly to legal points involved therein. Whether

there is justification for the Government or not is not the point. Whether the Government is justified in bringing such legislation is a matter which can be discussed when we discuss the Bill on merits. Sir, we are now concerned with the legal point that our friends on the Opposition have raised. Sir, I submit that the points that our friends on the Opposition have raised do not hold water and there is no point of order, and the Bill as brought up is perfectly correct.

*SRI J. H. SHAMSUDDIN (Deputy Minister for Finance).—Sir, I feel that there is no substance in the point of order raised by my Hon'ble friend, because as has been just pointed out by my Hon'ble friend Sri Puttaswamy, this House is perfectly competent to legislate retrospectively.

SRI K. PUTTASWAMY.—He has not questioned that.

MR. SPEAKER.—But some others have done.

SRI J. H. SHAMSUDDIN.—So the question of retrospective legislation has been settled.

The second point involved has been answered by my Hon'ble friend and he has said that it does not transgress the Inter-State Sales Tax Act.

The third point is—a very important point according to him—when the High Court has held the levy as illegal, this House is not competent to validate what the High Court has held as invalid. Let us come to the *Ratio decidendi* of the High Court decision. The reason which led the High Court to declare the cess invalid or illegal was the absence of a notification under the Act—the Madras Act. If the then Madras Government or the present successor Government had issued a notification as authorised by section 11 of the Madras Act, the High Court would not have declared the levy as illegal or *ultra vires*. Therefore, this House is competent to cure that defect of want of notification. And what the Bill before the House seeks to do is to remove that technical omission or error that had been committed by the then Madras Government and validating the levy that otherwise would have been

valid had a notification been issued under the Act.

Therefore Sir, the object of the Bill is to seek to remove that error or that omission of want of notification and this House is competent to rectify this technical omission or commission of the Government and it has the power to legislate or validate the past Acts of the Government if, due to technical errors, an Act becomes illegal or the High Court declares that as illegal. There are several examples wherein this House has passed such legislations when a particular Act was declared as invalid by the High Court on account of some technical or procedural defect... ..

Sri J. B. MALLARADHYA.—Will the Hon'ble Deputy Minister draw the attention of this House to the cases which he just now cited ?

Sri J. H. SHAMSUDDIN.—There is the Lottery and Betting Tax Act and it was declared invalid. There are a number of such cases, not only in this House. There are several such cases where so many Acts of the Government have been validated by the Legislature, if the Acts were declared illegal or *ultra vires* by the High Court on account of technical defects of the nature which is under reference.

Therefore Sir, the Bill is perfectly in order and it is not *ultra vires*.

Sri M. C. NARASIMHAN.—The High Court has not held that it is a technical defect.

Sri J. H. SHAMSUDDIN.—Want of a notification is a technical defect.

Sri J. B. MALLARADHYA.—The Advocate General is a member of this House. On a point like this, I think if the Speaker has no objection, this matter may be referred to him.

Mr. SPEAKER.—After all I cannot take recourse to the method suggested by my friend. If I feel a doubt about a point, I may call the Advocate General to speak. But I do not feel any doubt about the present point at all. Presently I will convince the Hon'ble member of the Opposition. First of all I deal with the question of retrospective legislation. In this respect a point was

raised in the Lok Sabha and I will read the relevant portion of the ruling given by the Deputy Speaker.

“On the 28th February, 1956, when the Lok Sabha took up for consideration the Sales-Tax Laws Validation Bill, 1956, which sought to validate the levy and collection of sales tax by States on inter-State trade or commerce between the 1st April, 1951 to the 6th September, 1955, an objection was raised that Parliament had no power to pass a law retrospectively as would have the effect of validating State Laws which were already null and void in view of the judgment delivered by the Supreme Court. It was contended that the enactment of the proposed Bill would be *ultra vires* of Parliament.

The Advocate General, Sri M. C. Setalvad, who was called to give his opinion on the legal and constitutional point raised, stated that under Article 286 (2) Parliament had been empowered to provide that a State shall levy inter-State sales tax. The Bill merely proposed to make a law which would enable the sales tax levied under the State laws to be valid. If Parliament could do something prospectively it could, according to ordinary rule, do it also retrospectively, unless there was something in the language of the Article which prevented it from doing so. He added that the Rule of Law was that unless the power conferring legislation had in it something to indicate that the legislation would not be retrospective, the power was both for prospective as well as retrospective legislation.”

Agreeing with the views of the Attorney-General, the Deputy Speaker ruled :

“It is not denied that Parliament can pass a law authorising a State or States to levy taxes on sales which are of an inter-State nature. Thereafter, if a State passes a law and levies a tax, the levy of that tax is quite legal.....

(MR. SPEAKER)

This Bill seeks to validate that law and incidentally to validate the levy of the tax under that law.....It has been rightly pointed out by the Attorney General that unless there is a prohibition, this Parliament can always pass laws and give effect to them retrospectively. Bar is not imposed upon the exercise of the power of the Parliament under article 286(2) of the Constitution. If today Parliament can authorise any State or all the States to impose sales-tax on inter-State transactions, it can do so with retrospective effect also.....Therefore there is nothing improper in this Act requiring or authorising the Bihar Legislature to pass a legislation in advance, i.e., with retrospective effect. The Bill is not unconstitutional, it is not *ultra vires*."

So far as this point of passing an Act with retrospective effect, this House has complete power.

I will come to the other point. The Act of 1955 has not been invalidated. That Act is in operation still. It is being only modified or repealed or amended by this House. When the re-organisation of States took place, naturally all the laws that the Madras area had have been the property of this State and so of this House. If they are the property of this State, naturally this House has jurisdiction and to that extent the Bill is quite in order.

So far as the inter-State sales tax is concerned, I have not been able to understand the point of order at all. This Bill is not giving any power to levy tax on inter-State transactions and if there is any such tax this House cannot in any way validate it. I do not think that any inter-State sales tax is in question now. Only the cess or a sort of sales tax on commodities in those parts is the only question about which this validating Act has been brought about.

As regards the reference to the High Court's judgment, I have not been able to understand what is meant by this. After all the High Court has

stated that the levy of tax was illegal and this House is trying to cure it. This House is not trying to by-pass the judgment of the High Court. So, the points of order that were raised by my Hon'ble friends from the opposition cannot hold water.

ಶ್ರೀ ಮಾಲ ಮರಿಯಪ್ಪ.—ನಾವು, ಈ ಮಸೂದೆ ಮೇಲೆ ಈ ಸಭೆಯಲ್ಲಿ Point of order ಎದ್ದು ಅದರ ಮೇಲೆ ನಡೆದಂಥ ಚರ್ಚೆಯ ನಂದರ್ಭದಲ್ಲಿ ಈಗಾಗಲೇ ಸ್ವಲ್ಪ ಮಟ್ಟಿಗೆ ಈ ಮಸೂದೆಯನ್ನು ತರಲು ಇರುವ ಮೂಲಕಾರಣಗಳೇನೆಂಬುದು ಚರ್ಚೆಗೊಳಗಾಗಿದೆ. ದಕ್ಷಿಣ ಕನ್ನಡ ಜಿಲ್ಲೆಯಲ್ಲಿರತಕ್ಕ ಒಂದು ಮಾರ್ಕೆಟ್ ಕಮಿಟಿಯವರು ಕೆಲವು Commercial crops ಮೇಲೆ ಸೆಸ್ಸನ್ನು ಹಾಕಿ ವಸೂಲು ಮಾಡುತ್ತಿದ್ದರು.

ಶ್ರೀ ಸಿ. ಕೆ. ರಾಜಯ್ಯ ಶೆಟ್ಟಿ.—ಒಂದೇ ಮಾರ್ಕೆಟ್ ಕಮಿಟಿಯೇ ?

ಶ್ರೀ ಮಾಲ ಮರಿಯಪ್ಪ.—ಹೌದು. ಹಾಗೆ ವಸೂಲು ಮಾಡುತ್ತಿದ್ದ ಕಾಲದಲ್ಲಿ ಮದ್ರಾಸ್ ಹೈ ಕೋರ್ಟಿನಲ್ಲಿ ಒಂದು ರೀಟ್ ಪೆಟಿಷನ್ ದಾಖಲಾಯಿತು. ಅದು ಹಿಂದೆ ದಾಖಲಾದ್ದು, 1956ನೆಯ ಇಸವಿ ನವೆಂಬರ್ ಅದಮೇಲೆ ನಮ್ಮ ಹೈಕೋರ್ಟಿಗೆ ವರ್ಗವಾಯಿತು. ನಮ್ಮ ಹೈಕೋರ್ಟಿನವರು ಸದರಿ ಅರ್ಜಿಯನ್ನು ತೀರ್ಮಾನಮಾಡಿ, ಆ ಕಮಿಟಿಗೆ ಸೆಸ್ ಹಾಕತಕ್ಕ ಅಧಿಕಾರವಿದ್ದರೂ Procedural defect ನಿಂದಾಗಿ, ಒಂದು ನೋಟೀಫಿಕೇಷನ್ ಹೊರಡಿಸಿದ್ದು ದರಿಂದ—ಸೆಸ್ಸನ್ನು ವಸೂಲು ಮಾಡುವುದು ಸರಿಯಲ್ಲವೆಂದು ತೀರ್ಮಾನಿಸಿದರು. ಅದರ ಮೇಲೆ, ಆ ಕಾಲದಲ್ಲಿ ಈ ಸಭೆ ಹಾಲಿ ಅಧಿವೇಶನದಲ್ಲಿಲ್ಲಿದ್ದುದರಿಂದ ತುರ್ತಾಗಿ ಒಂದು ಆರ್ಡಿನೆನ್ಸ್‌ನ್ನು ಜಾರಿಗೆ ತರಲಾಯಿತು. ಈಗ ಆ ಆರ್ಡಿನೆನ್ಸ್ ಶಾಸನವನ್ನು ನಿವೃತ್ತಿ ಮಾಡಿ ಒಂದು ಕ್ರಮವಾದ ಕಾನೂನನ್ನು ತರುವ ಉದ್ದೇಶದಿಂದ ಈ ಮಸೂದೆಯನ್ನು ಸಭೆಯ ಮುಂದೆ ಮಂಡಿಸಲಾಗಿದೆ. ಇದರ ಮುಖ್ಯ ಉದ್ದೇಶ, ದಕ್ಷಿಣ ಕನ್ನಡ ಜಿಲ್ಲೆಯ ಆವರಣಕ್ಕೆ ಬರತಕ್ಕ ಆಡಕೆ, ತೆಂಗು ಮತ್ತು ಕೊಬ್ಬರಿ—ಈ ಮೂರು ಪದಾರ್ಥಗಳ ಮೇಲೆ ಒಂದು ಸೆಸ್ ಹಾಕತಕ್ಕ ಅಧಿಕಾರ ಮತ್ತು 23ನೆಯ ನವೆಂಬರ್ 1956 ರಿಂದ ಸದರಿ ಕಮಿಟಿಯವರು ವಸೂಲು ಮಾಡಿರುವ ಮೊತ್ತವನ್ನು validate ಮಾಡುವುದೇ ಆಗಿದೆ.

ಇದು ಒಂದು ಹೊಸ ತೆರಿಗೆ ಅಥವಾ ಸೆಸ್ ಅಲ್ಲ. ಆ ಮಾರ್ಕೆಟ್ ಕಮಿಟಿಗೆ ಮದ್ರಾಸ್ ಶಾಸನದ ಪ್ರಕಾರ ಕಮರ್ಷಿಯಲ್ ಕ್ಯಾಪ್ಸಮೇಲೆ ಸೆಸ್ ಹಾಕತಕ್ಕಂಥ ಅಧಿಕಾರವನ್ನು ಕೊಟ್ಟಿದ್ದಾರೆ. ಒಂದು ನೋಟೀಫಿಕೇಷನ್ ಮಾತ್ರ ಇದ್ದು ಅಗತಕ್ಕಂಥದ್ದು ಪ್ರಮಾದವಶದಿಂದ ಪ್ರಕಟವಾಗಲಿಲ್ಲ. ಆ ಡಿಫೆಕ್ಟನ್ನು ಕ್ಯೂರ್ ಮಾಡುವುದಕ್ಕೋಸ್ಕರ ಈ ಮಸೂದೆಯನ್ನು ಸಭೆಯ ಮುಂದೆ ಮಂಡಿಸಿದೆ. ವಸೂಲಾದ ಮೊತ್ತ ಮಾತ್ರ ಸದರಿ ಮಾರ್ಕೆಟ್ ಕಮಿಟಿಗೆ ಹೋಗತಕ್ಕದ್ದಾಗಿದೆ. ಅದರಿಂದ ಈ ಮಸೂದೆಯನ್ನು ಮಾನ್ಯ ಸಭೆಯವರು ಒಪ್ಪಿಕೊಳ್ಳಬೇಕೆಂದು ಪ್ರಾರ್ಥಿಸುತ್ತೇನೆ.

*Sri K. PUTTASWAMY.—Sir, I rise to support this Bill and while doing so I would like to add a few remarks on the subject matter. The history of this legislation is already given to this

House. We have been told how the Act that came into force in the year 1933 was administered. No notification under section 11 of the Madras Commercial Crops Markets Act, 1933 was published authorising the Market Committee to levy and collect cesses on the commodities that were coming into the market. When the right of the Market Committee was questioned before the High Court, the Madras Legislative Assembly passed an Amending Act in the year 1955. The defect that existed in the administration of this Act was thought to be cured by this Amending Act of 1955. Fortunately, it was subject to a test in the High Court and it was found wanting. I am stating this point at this time to point the necessity of having trained and competent personnel in charge of the drafting section. Even with the best of intention and effort they were not able to foresee the obvious lacuna that was there in the administration of this Act. A reading of section 11 convinces us that the issue of a notification by the State Government authorising the Market Committee to levy and collect the cess had to be done. Without such a notification the Market Committee has gone on levying and collecting the cesses till it was challenged before the High Court and the High Court held in the year 1954—it is a reported case—that the Market Committee had no right to collect the cess in the absence of a notification authorising them to collect. Then came the Madras Commercial Crops Markets (Amendment) Act of 1955. Even that has not cured the defect.

It raises one other question. Now that this House is very jealous in guarding the rights of the citizens, my friends on the Opposition tried to raise a point that this House had no right to legislate retrospectively. (*Interruptions*) I know my responsibilities and also my limits in making remarks on the rulings given by the Speaker. You were pleased to rule, Sir, that this House had a right to legislate retrospectively. No doubt, we have a constitutional right to legislate retrospectively. We have also to consider whether we have a moral right

to legislate retrospectively. Whenever I make such remarks, I know it pleases my friends on the Opposition, but that need not deter me from making reasonable remarks. Even though we have a right to legislate retrospectively, we have to consider whether in this case we would be right in legislating retrospectively and validating the collections that the Market Committee has made. If the collections have been made *bona fide* and if the collections have been made in the interest of the public, then arises the point whether we have to legalise what has been done. In this case, the Market Committee has been constituted to promote the interests mainly of the growers. We know the need to have regulated markets throughout the country wherein agricultural commodities are brought for sale. The Act of 1933 was also enacted to safeguard the interests of the growers. Even though the levy and collection was held to be not valid because of the absence of the notification under the Act, the point that we have to consider is whether we would be right in curing that defect.

I have not been able to understand one point here. There is a reference to Customs Authority or any other authority here. I learn that certain amounts have been kept in deposit with the Customs Authority. I do not know under what circumstances those amounts which were claimed by the Market Committee were kept in deposit with the Customs Authority. I feel that the Government will have to explain why those amounts were kept in deposit with the Customs Authority and how the Market Committee can claim those amounts. It is also stated in the Statement of Objects and Reasons that 'in a recent decision of the Mysore High Court, it has been held that the levy of the cesses is invalid as no notification had been issued by the State Government determining the rates at which the said levy has to be made'. The date of the judgment of the High Court is not given. We are now in the month of November. We do not know when this decision of the High Court came. Why I am requesting the Government to clear this point is that

(SRI K. PUTTASWAMY)

the Government took recourse to an Ordinance. This House would be averse to concede the right to Government of promulgating an Ordinance unless the matter is very urgent. We want to know as to when the High Court held that this levy and collection was not legal and whether the Government could not have waited for the Assembly to meet and consider this Bill. Where was the pressing need to take recourse to the Ordinance is a point on which the Government will have to take this House into confidence and state the circumstances which necessitated them to take recourse to the Ordinance.

Mr. S P E A K E R.—The Hon'ble Member may continue after recess. The House will now rise for recess and meet after half an hour.

The House adjourned for recess at One Minute past Three of the Clock and re-assembled at Thirty-five Minutes past Three of the Clock.

[MR. SPEAKER in the Chair]

*SRI K. PUTTASWAMY.—Sir, I am glad that the Government have taken this opportunity to correct the mistake, which according to me, was inherent in section 11 of the original Act. In the original Act the power to fix up the rate was entirely left to the discretion of the Government. The Government were given powers to levy cess at such rate as they may by notification determine. In my humble opinion such a legislation is not quite good. The Assembly can give power to Government to levy a cess at a rate not exceeding a certain amount. But in the original Act XXXIII, under section 11 Government were given power to determine any rate that they pleased. Now Government have taken this opportunity and fixed up the rate of cess leviable on arecanut and cocoa-nut which was a matter in dispute. I would like to draw the attention of this House to one other matter which I feel important. I am sure the Government will readily agree with us that we could

not interfere with the decision given by the High Court. They may turn round and say that they are not interfering with the decision of the High Court but they are trying to cure the defect pointed out by the High Court. In the amending Act of 1955 the defect regarding Government's power to levy and collect was cured. The defect that was in the Act, that the Government should levy and collect, was cured by the Act. But this Ordinance was necessitated because certain amounts seemed to be in deposit with the customs authorities and certain bodies other than the Marketing Committee who collected this cess for and on behalf of the Marketing Committee. One thing which I have not been able to reconcile is a portion of clause 4: Validation of fee or cess collected or paid before the commencement of this Act. I would like the Government to spread more light on this portion.

“...notwithstanding anything contained in any law, or any judgment, decree or order of any court, be deemed to have been validly collected under section 11 of the principal Act as amended by this Act as if this Act were in force on the day when the collection was made by the market committee or a customs authority or any other authority or officer aforesaid and any amount collected by a customs authority or any other authority or officer aforesaid as deposit or security shall be paid to the market committee concerned.”

Supposing Sir, a certain aggrieved party has gone to the Court and obtained a decree in his favour for the refund of the amount. After this Bill becomes law, that party will not be entitled to realise the fruits of the decree. We may turn round and take shelter on the ground that it is for a public purpose. It is no doubt true that on certain occasions, it becomes necessary to legislate like that. But we would like to know from Government whether this is an occasion which would warrant such a legislation. If

Democracy is to function successfully, the people who are governed must know where they stand. They should be able to know what rights they have as against the State. The rights that they have can be ascertained by the legislative enactments which govern their activities. In this matter, Sir, the Marketing Committee and sometimes the customs authorities and certain other authorities going for and on behalf of the marketing committee have collected amounts which are held by the High Court not legally due to the Marketing Committee. I am told that certain amounts are held in deposit with the customs authority and those amounts were agreed to by the Government and the parties to be kept in deposit and to be disposed of subject to the decision of the High Court. Now that the High Court held that those amounts were not legally due to the Marketing Committee, the result of the decision would be that those parties would be entitled to those amounts. I was submitting that in certain cases, the State can legislate and even try to get such amounts if they are for public purpose, which would promote the interest of the common man, the interest of the agricultural community. I am making these remarks only to request the Government to spread more light on these matters. Therefore, Sir, with these remarks, I support this Bill.

SRI G. VENKATAIGOWDA (Palaiyam).—At the outset, I would confine myself to the fact that the promulgation of the Ordinance was unwarranted and it was not called for and there was no justification whatsoever to have taken recourse for the promulgation of an Ordinance. Because there was no pressing matter as we could see or any matter of urgency. The Government has to explain what was the urgent necessity or the need to get the Ordinance promulgated, I should say, usurping the power that has been vested in this House. So far as the other points are concerned, I should like to say that this Bill is sought to replace or set right the Ordinance. Section 11 makes reference to the Madras General Sales Tax Act of 1939 and also refers to the Sales

Tax Act. We do not know whether this is the original Act enacted in the year 1933 by the Madras Government. If this original clause stands as it is, I do not see how it could make reference to an Act made in the year 1939. This section 11 is deemed to have been enacted in 1933. If it had been so, I fail to understand how that could make a reference to the Madras General Sales Tax Act of 1939. That is a point on which I need some clarification—whether this original principal Act has come now subsequent to 1939.

The second point is, we do not know how much amount this Marketing Committee or any other authority has collected. Another obligation cast under section 11 is:

“out of the cess levied under sub-section (1) on the commercial crop or crops bought and sold in any part of the notified area which constitutes a village as defined in section 2 of the Madras Village Panchayats Act, 1950, such proportion as may be prescribed shall be paid by the market committee to the panchayat concerned.”

I do not know to what extent this obligation has been performed on the part of the Government. Whether they have prescribed the proportion to be paid to the village panchayat as is envisaged under section 11 is not known. It has not been disclosed at this stage whether any portion has been paid to the respective panchayats under whose jurisdiction this amount has been collected. If the Government has not performed that obligation, I fail to understand how they could think of enforcing or validating an illegal thing. As pointed out by Sri K. Puttaswamy, to get the defects under section 11 of the original Act set right, this amendment Act of 1955 was brought into being. Even that amendment Act is defective. The defective nature of that amendment Act has not been mentioned in the Statement of Objects and Reasons. If the Government had told us that this amendment Act was intended to cure even that defect and therefore they were seeking to bring a Bill to validate all

(SRI G. VENKATAI GOWDA)

those things, that would have been another matter. But the Government is silent on that matter. We do not know whether the Amendment Act is defective. If it is defective, why do we need an amendment Bill for a defective Act? Section 10 of the Amendment Act seeks to validate all the illegal levy and collection made therein. Notwithstanding anything contained in any law or in any judgment, decree or order of any court, all fees levied and collected or purporting to have been levied and collected by market committees under section 11 of the principal Act before it was amended by this Act shall be deemed always to have been levied under the principal Act amended by this Act as if this Act was in force at all relevant times.

So, if it is not defective, I do not think there is any reason now to seek to validate all these things. There is already an amendment intending to validate certain defects. Where was the necessity to bring this amending Bill is another point on which I want clarification.

My second point is, as envisaged in section 11, the marketing committee is authorised to levy and it is also said that the levy is to be imposed by means of a notification. Even there, it is the Marketing Committee that is authorised to levy and collect. But the amendment refers to collections made by customs officers who do not come within the purview of section 11 of the original Act. There is therefore some attempt to include something which is not existing in the Original Act. If the original Act does not envisage a power, how could these customs officers collect these amounts? We are trying to incorporate a thing which is not existing in the principal Act. As the Hon'ble Speaker pointed out, if the principal Act is defective, let us try to cure it. But we cannot incorporate a thing which is not existing in the original Act. The original Act does not give any power to any officer to levy and collect and as such, how can we validate all these illegal

collections made by parties who are not authorised under section 11? Section 11 empowers only the marketing committee, but here we are trying to validate the levies.

SRI A. V. NARASIMHA REDDY (Bangalore South).—It is only the officers working under this marketing committee.

SRI G. VENKATAI GOWDA.—It is not made clear. Customs authorities cannot be working under the marketing committee. He is a servant of the Government of India.

SRI A. V. NARASIMHA REDDY.—This Bill can never extend to officers who are working under the Government of India and who have collected the cess.

SRI MALI MARIAPPA.—May I give one clarification? In South Kanara there will be some export of areca nut and cocoanut. During that time, they will require permission by the customs authorities for exporting these commercial products. So, when the traders or others wanted the export permission, since the matter was for arbitration or decision before the High Court, they said, the amount may be deposited with the customs authorities. It is under these circumstances that the cess is in deposit.

SRI G. VENKATAI GOWDA.—My submission is, what business had the customs authorities to ask for deposit of monies? Who gave them that power? Under this Act, it is the marketing committee that derives power to levy and collect. Has the Government any power to delegate that power to the customs authorities to ask the parties to deposit the money due to the marketing committee? It is not contemplated under section 11. The position is, the marketing committee had the power levy and collect and they had to publish a notification and that notification had not been issued. Let us validate and cure that defect. But you are now through this Bill seeking to validate an act which has not been contemplated under the principal Act. That is my submission. There is no authority or right vested in any officer to collect these amounts and there is no power conferred upon them. How can this

House validate a thing which was not existing or envisaged in the original Act?

Mr. **SPEAKER**.—Supposing the customs authorities were acting on behalf of the marketing committee?

SRI G. VENKATAI GOWDA.—It is not disclosed here. We are not enlightened whether the marketing committee passed a resolution authorising on their behalf these customs authorities to make the collection. But all that is said is that the money is kept in deposit and the amended section says that the officers and customs authorities who have collected the amount should make available that money to the marketing committee. If there is an agreement between the marketing committee and the officers who collected, it may be all right. Otherwise, I do not see any reason why this amended section should be inserted here. That *ipso facto* suggests that there is no agreement between the marketing committee and the customs authority, and the customs authority has done this taking law into its own hands. The original Act does not contemplate this power to be given to them. Therefore, I submit that you are seeking to validate a thing that is not contemplated in the original Act. If there is a defect, let us cure it. But we are incorporating something which is not envisaged in the original Act or which was not existing. Without jurisdiction, we cannot cure this defect. There is a decision in the United States to the effect that the want of power or jurisdiction cannot be cured by subsequent legislation. Here I submit that these authorities had no powers to impose a levy and make a collection and therefore, we cannot validate these illegal acts because they are not covered by the principal Act. These things were not existing. Therefore, according to this decision and also according to the principle of natural justice, we cannot validate a thing which was not contemplated in the original Act. Therefore, Sir, I submit this cannot be a good piece of legislation. If you see section 4 (ii), it says:

“Any amount collected—

(i) by way of fee or cess by any market committee;

(ii) by a customs authority or any other authority or officer, from any person as deposit or security representing the fee or cess payable or purporting to be payable to any market committee under any bye-law made by such market committee before the commencement of this Act,

shall, notwithstanding anything contained in any law, or any judgment, decree or order of any court, be deemed to have been validly collected under section 11.....”

It gives that power to levy and collect. My submission is that if the principal Act gives any authority to these officers for levying and collecting, then we can cure the defect. In the principal Act, it is not envisaged and so this Bill is nothing but a retrograde and ill-conceived Bill.

Sir, section 3 and section 4 are more or less the same. The only additional point that has been stated in section 4 is, if the market committee has levied and collected, let us cure the defect. But to the extent money has been collected by other officers, we are without jurisdiction to make it valid. It is not unlikely that this matter may again go to the High Court and we should be in a position to see that our stand at this stage is appreciated by people who decide this issue later. Therefore, I submit that whenever you bring forward a legislation, you must always consider how to validate the illegal collections.

This House has been competent to enact legislation to cure defects and it can only do it within its own jurisdiction. Are we within our competence to legislate over a thing which was not contemplated by the original Act by means of an amending Bill? That is my submission.

Mr. **SPEAKER**.—How is it that this House is prevented from doing so?

SRI G. VENKATAI GOWDA.—Because the original Act does not give any power to any officer or authority:

4 P.M.

Sri C. J. MUCKANNAPPA (Gubbi).—Sir, has any member of this House access to the Government records? My friend Sri V. P. Deenadayalu Naidu is going through the Government records. I would like to know whether it is in order.

Mr. SPEAKER.—I have no jurisdiction over Government records. This House has no jurisdiction over the records of the Government.

Sri C. J. MUCKANNAPPA.—So, anybody can have access to the records?

Mr. SPEAKER.—It is for the Minister to show or not.

Sri K. PUTTASWAMY.—Sir, you have jurisdiction to prevent us from looking into the records excepting those matters which concern this House.

Mr. SPEAKER.—I have no such power. I can only say that this House is entitled to get information from the Government.

Sri V. P. DEENADAYALU NAIDU.—We are dealing with the judgment of the High Court. It is just by way of clarification, I was looking into the file, but my friend is thinking that I am reading a newspaper.

Sri C. J. MUCKANNAPPA.—I saw him.

Mr. SPEAKER.—Your point of order is out of order.

Sri Kadidal MANJAPPA (Minister for Revenue).—I would like to know from the Hon'ble Member the provision of law or constitution on which he relies in support of his argument.

Sri G. VENKATAI GOWDA.—There is no question of depending on any provision of law. My submission is the original Act contemplates something. If it is defective we can cure it by some legislation. Are we entitled to validate it?

Mr. SPEAKER.—Is not the House entitled to go far beyond the original section? To that question the answer is, according to Sri Kenchappa, we cannot go.

Sri K. KENCHAPPA (Hiriyur).—There is one legal implication. When a question was brought before the High Court, in regard to a particular incident, the collection of cess was

invalidated. Let alone passing the legislation with retrospective effect. Supposing the same person whose case was brought before the High Court and decision was taken once again goes to the court, will it not affect the principle of *res judicata*?

Mr. SPEAKER.—You are talking about decrees in this respect. I am not concerned with the *res judicata*. That is for the courts. The House is supreme and it can pass any law and repeal or amend any law within the rights given by the Constitution. Of course so far as the courts are concerned, *res judicata* is there. But I am not concerned with it.

Sri K. KENCHAPPA.—Supposing it empowers to collect cess from the same person and he says this is an aspect which has already been discussed. What will be the position?

Mr. SPEAKER.—Of course, the general public are entitled to go to court. It is for the High Court to say whether a law is valid or not. I am here just to see whether a Bill or a clause of a Bill is on the face of it valid or invalid. Beyond that I cannot do anything. If the House feels that this Bill is beyond the scope of the original Act, it will not pass it.

Sri G. VENKATAI GOWDA.—So far as section 4 (i) is concerned, it has already been ruled that we are entitled to validate. But so far as sub-section (ii) is concerned, that is an illegal thing which gives room for a lot of illegality and absurdity because as the Hon'ble Speaker pointed out, our intention is to incorporate a new section in the amended Bill. But, here we are seeking to validate a thing which was not originally found and there was no power or authority. As I have already pointed out we have to observe a general rule, i.e., we cannot validate a thing. We have to be governed by merely rules.

*Sri V. SRINIVAS SHETTY (Coondapur).—There are two grounds on which I oppose this Bill. This Government does not deserve the support of this House because the Madras Commercial Crops Act is of 1933 and the Madras Government found the mistake in the year 1955. This Bill seeks to retros-

pectively bring into force its effect from 1955.

Clause 3 which seeks to amend section 10 of the Madras Act reads :

"In section 10 of the Madras Commercial Crops Markets (Amendment) Act, 1955, as in force in the Madras Area—

(i) in sub-section (1), for the words 'shall be deemed always to have been levied under the principal Act as amended by this Act as if this Act was in force at all relevant times', the words 'and all amounts representing the fees payable or purporting to be payable to market committees, collected by any authority or officer as deposit or security from any person, shall be deemed always to have been validly levied or collected by the market committee concerned or such authority or officer under the principal Act, as amended by this Act, as if this Act were in force at all relevant times and all such amounts collected by any authority or officer shall be paid to the market committee concerned,' shall be substituted and shall always be deemed to have been substituted."

Though the amendment of section 11 says 'with effect from 1955,' the amendment of section 10 says 'with effect from 1933 onwards'. Even in the Statement of Objects and Reasons there is a clue. It says:

"In a recent decision of the Mysore High Court, it has been held that the levy of the cesses is invalid as no notification had been issued by the State Government determining the rates at which the said levy has to be made. The validity of the collection of the fees prior to the amendment Act of 1955 has also been questioned."

It is clear from the clause that this amendment will have effect from 1933.

Sri Kadidal MANJAPPA.—It cannot have.

Sri V. SRINIVAS SHETTY.—A perusal of clause 3 convinces me

that it will have effect from 1933 and not from 1955.

Sri MALI MARIAPPA.—Clause 2 on page 2 is very clear.

Sri V. SRINIVAS SHETTY.—There is some confusion. So far as the Government of Madras is concerned, there is what is called laches. They have been sleeping over this matter. In law a person who sleeps over a right should not be given remedy. I am of the opinion that this Government as well as the previous Government are also guilty of complete laches. So, morally and legally this Government cannot be given the support asked for.

Original section 11 says:

"(4) the cess levied under sub-section (1) shall be subject to the provisions of Article 286 of the Constitution."

The Hon'ble Minister was pleased to say that some amount has been deposited with the Customs Authority because there was export of coconuts and arecanuts.

Article 286 of the Constitution says:

"No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

(a) outside the State; or

(b) in the course of the import of the goods into, or export of the goods out of, the territory of India."

I speak subject to correction because I do not know whether there is any recent amendment to this Article.

Sri MALI MARIAPPA.—By consent.

Sri V. SRINIVAS SHETTY.—Where is the question of consent? The section is quite clear.

Sri MALI MARIAPPA.—When the writ petition was pending before the High Court, there was an understanding between the market committee on the one hand and the export traders on the other who happen to be the petitioners. They have undertaken to deposit with the customs authority.

Sri V. SRINIVAS SHETTY.—Then, this cess cannot be levied on such of the goods which are exported from India.

Sri A. V. NARASIMHA REDDY.—Those commodities have to be purchased by the market committee before they are exported. To that extent, they have to pay cess.

Sri V. SRINIVAS SHETTY.—The Hon'ble Minister was pleased to say that those commodities were exported and hence cess has to be deposited with the customs authority. Now, my Hon'ble friend gives another interpretation. I do not know who is correct.

I have no objection to this amendment, but it will be unjust and harsh to the persons affected to give retrospective effect to it from 1933 onwards and so we refuse to give support to this Bill.

ಶ್ರೀ ಮಾಲ ಮರಿಯಪ್ಪ.—ಸ್ವಾಮಿ, ಈಗ ಒಂದು ಮುಖ್ಯವಾದ ಪ್ರಶ್ನೆಯನ್ನು ಎತ್ತಿರತಕ್ಕದ್ದು ಕನ್ಸಂಸ್ ಆಫೀಸಿನಲ್ಲಿ ಡೆಪಾಸಿಟ್‌ನಲ್ಲಿರತಕ್ಕ ಮೊತ್ತ ಮಾರ್ಕೆಟಿಂಗ್ ಕಮಿಟಿಗೆ ಸಂದಾಯವಾಗತಕ್ಕ ಒಂದು ಕಲಂ ಈ ಮನೂವೆಯಲ್ಲಿ ಇದು ಹೇಗೆ ಬಂತು ಎನ್ನುವುದು. ಇದಕ್ಕೆ ಹೈಕೋರ್ಟ್ ಜಡ್ಜ್ ಮೆಂಟ್ ಇದೆ. ಇದನ್ನು ಯಾರು ಬೇಕಾದರೂ ನೋಡಬಹುದು :—

“We have no objection to the deposit with the customs department being held in suspense account till the disposal of the above writ petition and such an arrangement which has been in force during the past 22 months will not be prejudicial to either side.”

This is the observation of the High Court.

ಆದ್ದರಿಂದ ಈ ಪಾರ್ಷಿಯಸ್, ಹೈಕೋರ್ಟ್ ರಿಟ್ ಪೆಟಿಷನ್ ಹಾಕುವಾಗ ಇಬ್ಬರಿಗೂ ಪೊಜ್ಯುಡಿಸ್ ಆಗದೇ ಇರಲಿ ಎಂದು ಒಪ್ಪಂದದ ಮುಖಾಂತರ ಡಿಪಾಸಿಟ್ ಇಟ್ಟಿದ್ದರು. ಈಗ ಅದು ಯಾರಿಗೆ ಸಂದಾಯವಾಗ ಬೇಕು ಎನ್ನುವುದು ಸೂಚಿಸಿದೆ. ಇದು ಮಾರ್ಕೆಟ್ ಕಮಿಟಿಗೆ ಸಂದಾಯವಾಗುತ್ತದೆ. ನ್ಯಾಯವಾದ ಒಂದು ಪರಿಹಾರವನ್ನು ಕೊಡತಕ್ಕ ಸಂದರ್ಭಗಳಿಗೆ ಇದನ್ನು ತೆಗೆದುಕೊಳ್ಳುವಾಗ ರಿಕ್ವಾಸ್ಟ್ರೇವ್ ಇಫೆಕ್ಟಿನಿಂದ ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೆ ಯಾವ ದಾಧಕವೂ ಆಗಲಾರದು ಎನ್ನುವಂಥ ಒಂದು ಪ್ರಶ್ನೆಯನ್ನು ಶ್ರೀ ಪುಟ್ಟಸ್ವಾಮಿ ಯವರು ಎತ್ತಿದ್ದಾರೆ. ಆ ಪ್ರಶ್ನೆಯನ್ನು ಲಕ್ಷ್ಯದಲ್ಲಿಟ್ಟುಕೊಂಡರೆ ಈ ಮೊತ್ತ ಸಂದಾಯವಾಗುವುದು ಮಾರ್ಕೆಟ್ ಕಮಿಟಿಗೆ. ಮಾರ್ಕೆಟ್ ಕಮಿಟಿ ಎನ್ನುವುದು ರೈತರ ಹಿತವನ್ನು, ಬೆಳೆಗಾರರ ಹಿತವನ್ನು ಸಾಧನೆ ಮಾಡುವುದು. ಆದ್ದರಿಂದ ಅವರು ಹೇಳತಕ್ಕ ತತ್ವಕ್ಕೂ ಸಹ ಅನುಗುಣವಾಗಿದೆ. ಆದ್ದರಿಂದ ಈ ಮೊತ್ತ ಆ ಮಾರ್ಕೆಟ್ ಕಮಿಟಿಯವರಿಗೆ ಸಂದಾಯವಾಗಬೇಕೆನ್ನುವ ಕಲಮನ್ನು ಇದರಲ್ಲಿ ಸೇರಿಸಿದೆ. ಒಂದು ಮೂಲಭೂತವಾದ ಪ್ರಶ್ನೆ ಇದರಲ್ಲಿ ಇದ್ದದ್ದು.

ಇಷ್ಟೆ, ಆರ್ಮಿನೆನ್ಸ್ ಪೋರ್ಟ್‌ಲೇಟ್ ಮಾಡತಕ್ಕ ಅವಶ್ಯಕತೆ ಏನಿತ್ತು ಎನ್ನುವುದು. ಅದಕ್ಕೆ ಒಂದೆರಡು ನಿಚಾರಗಳನ್ನು ತಿಳಿಸಿದರೆ ಸಾಕು ಎಂದು ಕಾಣುತ್ತದೆ. ಮದರಾಸ್ ಹೈಕೋರ್ಟ್‌ನಲ್ಲಿ ಪ್ರಾರಂಭವಾದ ರಿಟ್ ಪೆಟಿಷನ್ ಮೈಸೂರು ಹೈಕೋರ್ಟ್‌ಗೆ ವರ್ಗವಾದದ್ದು 1956ನೆಯ ನವಂಬರ್ ಒಂದನೆಯ ತಾರೀಖು ಅಲ್ಲಿಯವರೆಗೂ ತೀರ್ಮಾನವಾಗಿರಲಿಲ್ಲ. ಇಲ್ಲಿ ಇದು ತೀರ್ಮಾನವಾಗುವುದಕ್ಕೆ 1957ನೆಯ ಇಸವಿ ಆಪ್ರಿಲಿನ ವರೆಗೂ ಹಿಡಿಯಿತು. 1957ರ ಡಿಸೆಂಬರ್‌ನಲ್ಲಿ ಒಂದು ಜಡ್ಜ್ ಮೆಂಟ್ ಬಂದಮೇಲೆ ಸರ್ಕಾರದವರ ಗಮನಕ್ಕೆ ಫೆಬ್ರವರಿ ತಿಂಗಳಲ್ಲಿ ಈ ನೋಟೀಫಿಕೇಷನ್‌ನಲ್ಲಿ ಡಿಫೆಕ್ಟ್ ಗೊತ್ತಾಯಿತು. ಸರ್ಕಾರದವರು ಕೂಡಲೇ ಇದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ಒಂದು ಅಮೆಂಡಿಂಗ್ ಬಿಲ್ಲನ್ನು ರೆಜಿಸ್ಟ್ರೇಷನ್ ಮುಂದೆ ಇಡಬೇಕೆನ್ನುವ ಸೂಚನೆಯನ್ನು ಕೊಟ್ಟರು. ಫೆಬ್ರವರಿ 1958ರಲ್ಲಿ ಆ ಸೂಚನೆಯನ್ನು ಸರ್ಕಾರದವರು ಕೊಟ್ಟಮೇಲೆ ಸಂಬಂಧಪಟ್ಟ ಇಲಾಖೆಯವರು ಒಂದು ಬಿಲ್ಲನ್ನು ರಚನೆಮಾಡಿ ಪುನಃ ಸರ್ಕಾರದವರ ಒಪ್ಪಿಗೆ ಆಗಬೇಕಾದರೆ 1958ನೆಯ ಮೇ ಮೊದಲನೆ ವಾರದ ತನಕ ಬಂತು. ಆಗ ಈ ಸಭೆಯ ಅಧಿವೇಶನ ಆಪ್ರಿಲಿಗಾಗುವ ಸಂದರ್ಭ ಇದ್ದುದರಿಂದ ಕೂಡಲೇ ಈ ಸಭೆಯಲ್ಲಿ ಮಂಡಿಸಲಕ್ಕೆ ಆಗಲಿಲ್ಲ. 1958ನೇ ಜೂನ್ ಆಪ್ರಿಲಿನಲ್ಲಿ ಇದನ್ನು ಆರ್ಮಿನೆನ್ಸ್ ರೂಪದಲ್ಲಿ ತಂದು ಅನಂತರ ತಕ್ಷಣ ಸೇರಿಸುವ ಈ ಅಧಿವೇಶನದಲ್ಲಿ ತಂದಿದ್ದೇವೆ. ಮಾರ್ಕೆಟಿಂಗ್ ಸೊಸೈಟಿ ಅವರ ಒಂದು ಸಬ್‌ಸ್ಟ್ಯಾನ್ಷಿಯರ್ ರೈಟ್ ಮದರಾಸ್ ಮಾರ್ಕೆಟಿಂಗ್ ಆಕ್ಟ್‌ನಲ್ಲಿ ಕೊಟ್ಟಿರುವ ಪ್ರಕಾರ ನೋಟೀಫಿಕೇಷನ್ ಆಫ್ ಆಗಿರಲಿಲ್ಲವಾದ್ದರಿಂದ ಅವರಿಗೆ ಏನು ಒಂದು ಪರಿಹಾರವನ್ನು ಮದ್ರಾಸ್ ಸರ್ಕಾರದವರು ಕಾನೂನಿನ ಮುಖಾಂತರ ಕೊಟ್ಟಿದ್ದರೋ ಅದನ್ನು ಸರಿಪಡಿಸುವುದಕ್ಕೆ ಈ ಒಂದು ವ್ಯಾಲಿಡೇಷನ್ ಆಕ್ಟ್ ಅಥವಾ ಅಮೆಂಡ್‌ಮೆಂಟ್‌ನ್ನು ತಂದಿದೆ. ಇದರಲ್ಲಿ ವಾಹತರವಾದ ಅಂಶ ಏನೂ ಇಲ್ಲ. ಆದ್ದರಿಂದ ಈ ಮನೂವೆಗೆ ಮಾನ್ಯ ಸಭೆಯವರು ಒಪ್ಪಿಗೆ ಕೊಡಬೇಕೆಂದು ಹೇಳುತ್ತೇನೆ.

Mr. SPEAKER.—The question is :

“That the Madras Commercial Crops Markets (Mysore Amendment and Validation of Levy of Cess) Bill, 1958, be taken into consideration.”

The motion was adopted.

Mr. SPEAKER.—Clauses. Clauses 2 to 5, both inclusive. The question is :

“That Clauses 2 to 5, both inclusive, stand part of the Bill.”

The motion was adopted.

Clauses 2 to 5, both inclusive, were added to the Bill.

Mr. SPEAKER.—Clause 1. The question is :

“That Clause 1 stand part of the Bill.”

The motion was adopted.

Clause 1 was added to the Bill.

Mr. SPEAKER.—Title and Preamble.
The question is :

“That the Title and the Preamble stand part of the Bill.”

The motion was adopted.

The Title and the Preamble were added to the Bill.

Motion to pass.

Sri MALI MARIAPPA.—Sir, I move :

“That the Madras Commercial Crops Markets (Mysore Amendment and Validation of Levy of Cess) Bill, 1958, be passed.”

Mr. SPEAKER.—The question is :

“That the Madras Commercial Crops Markets (Mysore Amendment and Validation of Levy of Cess) Bill, 1958, be passed.”

The motion was adopted.

MYSORE TENANCY LAWS (SECOND AMENDMENT) BILL, 1958.

Motion to consider.

Sri Kadidal MANJAPPA (Minister for Revenue).—Sir, I move :

“That the Mysore Tenancy Laws (Second Amendment) Bill, 1958, be taken into consideration.”

Mr. SPEAKER.—Motion moved :

“That the Mysore Tenancy Laws (Second Amendment) Bill, 1958, be taken into consideration.”

Sri Kadidal MANJAPPA.—I wish to speak a few words to explain the necessity for this Bill. Hon'ble Members are aware that when the new State came into existence on 1st November 1956, different laws governing the tenancy and land holdings were in force in different regions of the new State. In Hyderabad Karnatic area the Hyderabad Act of 1950 was in force; in the Madras Karnatic regions the Madras Cultivating Tenants Protecting Act was in force. In the erstwhile State of Mysore the Mysore Tenancy Act of

1952 was in force. So Government thought of evolving a uniform law governing the tenancy and agricultural lands. With a view to evolve a uniform law it was found necessary to suspend the operation of certain provisions in the enactments that were in force in different regions of the State. In the Bombay region the Bombay Tenancy and agricultural Lands Acts gave certain rights both to the raiyats and landlords. The landlords have been given the right to resume for personal cultivation subject to certain conditions. Similarly under the Hyderabad Tenancy and Agricultural Lands Act the landlords and the tenants were given certain rights. In the Mysore region the period of tenancy was for a period of five years. At the end of five years it was open to the landlord to terminate the tenancy and resume the land for his cultivation or for leasing it out to some other person. Pending enactment of uniform legislation, the operation of certain provisions in these Acts had to be suspended. Accordingly, in the year 1957, Mysore Acts Nos. XIII, XIV, and XVI were passed. The life of these enactments was extended last year by a further period of one year. These Acts were due to expire at the end of June 1958. At that time, the Legislature was not in session and therefore the Government had to promulgate an Ordinance. The present Bill is introduced with a view to replace the Ordinance which has been placed on the Table of the House.

This is a very simple measure and I do not think there is any controversy with regard to the measure. The object of the Government is to seek permission of the House to extend the operation of the enactments just referred to by me for a further period up to 31st December 1958. Hon'ble Members are aware that a Committee was constituted under the Chairmanship of Sri Jatti, the present Chief Minister; that Committee submitted its report to Government and that report was discussed on the floor of this House. Government have considered that report and are going to discuss with the Planning Commission and take their advice with regard to the Bill to